

FACTSHEET – CHOOSING A LEGAL STRUCTURE

This factsheet should be seen as a starting point and is not a replacement for legal guidance and support. Here we look at the reasons for incorporating as an organization and the key features of different legal structures in the VCSE sector.

See the following Factsheets: **Legal Structures Chart** and **Legal Structures – Advantages and Considerations**.

Why are legal structures important and what is ‘incorporation’?

Choosing a legal structure determines a framework which underpins how an organisation can operate. If you are looking to employ staff, acquire property or enter contract to provide a service you should consider **incorporating** your organisation into a separate legal entity. This will help protect the individuals who run the organisation from being personally liable for your organisation’s debts and other obligations.

Key considerations to think through when choosing legal structure:

- **Purpose and identity** – *do you see your organisation as a charity with charitable purposes? Or is this more a business with a particular social mission?*
- **Control** – *Who are the decision makers for your organisation? Do you want to have members separate from your directors or trustees with decision making powers? Does your board want to be paid a salary or work on a voluntary basis?*
- **Income** – *What’s your income generation model? Donations? Grants? Trading?*
- **Regulatory requirements** – *Different legal structures are regulated by different bodies with different reporting requirements as part of your accountability*

Particularly if you are thinking about incorporating as a separate legal entity, do not feel the need to rush through this until you are clear:

- what your organisation’s aims and objectives are
- who the governing body will be (your committee members, trustees, directors) - at least at the start
- how you plan to fund your organisation
- what the reporting requirements are for the relevant regulatory body (e.g. Charity Commission for charities, Companies House for companies, Financial Conduct Authority for registered co-operative societies)

Particularly in the early stages, we advise groups pilot their ideas first to assess local demand, feasibility and to refine their offer, before opting to incorporate.

Please contact Bury VCFA for support in developing your ideas and activities.



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Introducing different legal structures

The following provides a basic overview of the legal structures which are common in the VCSE sector.

Unincorporated Association

- Has voting members (up to the group to decide how formalised their membership is beyond the committee members)
- Most common type of VCSE organisation (e.g. community groups, local clubs)
- Unincorporated - the association cannot hold assets in its own name and its members will be personally liable for its debts and other obligations.
- Simple to set up, cheap to run and not regulated by an external body (unless registered as a charity, in which case regulated by the Charity Commission)

Registered Charity

- Suitable for groups with income over £5k if the group has charitable purposes and is run 'for public benefit' ([for more guidance on 'public benefit' follow this link](#))
- Regulated by the Charity Commission – annual reporting requirements
- Governed by board of volunteer trustees
- Registered charities, although they have charitable status, are in the laws of the law still a collection of individuals. They are still an unincorporated association, with no separate legal 'personality'.
- For more information see the **Charity Registration** factsheet.
- Note: since the creation of the Charitable Incorporated Organisation - which creates a separate legal entity with charitable status and helps protect the governing body with limited liability for any debts or obligations – the recommended option for groups looking to set up a charity is to incorporate as a Charitable Incorporated Organisation.

Charitable Trust

- No voting members – no wider membership beyond the trustees
- Exclusively charitable and for the public benefit (registered with the Charity Commission)
- Not incorporated
- Must register with Charity Commission if income is over £5,000 per year

Charitable Incorporated Organisation (CIO)

- Incorporated (a separate legal entity in the eyes of the law)
- Exclusively charitable and for the public benefit
- Registered with and regulated by the Charity Commission
- Come in 2 types – '**association model**' (has members beyond trustees with voting rights) and '**foundation model**' (no voting members beyond trustees)
- Charitable companies limited by guarantee can apply to convert to become a CIO

[Charitable purposes - GOV.UK](#)

[How to write charitable purposes - GOV.UK](#)

[Setting up a charity: model governing documents - GOV.UK](#)



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Community Interest Company

- Non-charitable incorporated company
- Popular option for social enterprise – companies that trade (selling goods or services) to fulfil a core social mission written into their governing document
- Registered with and regulated by Companies House and the CIC Regulator
- Has an ‘asset lock’ – must ensure assets are used for the benefit of the community
- ‘Dissolution clause’ – part of the ‘asset lock’, stating in governing document that in the event of closure another CIC or charity will receive any residual assets
- CICs can have paid directors

See the corresponding Factsheets – **Social Enterprise**, and **How to register a Community Interest Company (CIC)**

Community Benefit Society (CBS)

- Incorporated
- Democratically owned by its members – ‘one member one vote’
- Must exist primarily for the benefit of the wider community
- Based on co-op values of self-help, self-responsibility, democracy, equality, equity and solidarity
- Regulated by the Financial Conduct Authority (FCA)
- Can register as charitable community benefit society if aims are exclusively charitable and an ‘asset lock’ is put in place - stating that any residual assets would be transferred to another charity if the organisation closed
- Can issue ‘community shares’ to generate funding

Co-operative Society

- Similar to a CBS, but main purpose is to provide services to its members (rather than the wider community)
- Incorporated
- Can also issue ‘community shares’ to generate funding

Beyond the Community Benefit Society and Co-operative Society, there are many other incorporation options for co-operatives. [Please visit this page for more information and guidance](#)

For further guidance on legal structures and to talk through your next steps developing your project, please contact Bury VCFA.



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